REMARKS

A.   Objection to Drawings

In the Office Action mailed on November 22, 2004. FIG. 1 was objected to for not including numeral 10 as mentioned on page 5, line 4 of the Specification. Applicants are filing concurrently with the present Amendment a Proposed Amendment to Drawings that adds numeral 10 to FIG. 1. Accordingly, the objection has been overcome and should be withdrawn.

B.   Objections to Specification

The Specification was objected to because the interpreter 30 at page 11 and the management system 145 at page 15 of the Specification were misnumbered. Interpreter 30 has been amended to read as interpreter 38 and management system 145 has been amended to read as management system 14 as suggested by the Office Action. Accordingly, the objection is overcome and should be withdrawn.

C.   35 U.S.C. § 112, Second Paragraph

Claims 9-12, 14 and 17 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for having various antecedent problems. In particular, claims 9 and 11 were rejected because there was no proper antecedent basis for "the first stage." Applicants traverse the rejection in that independent claim 1 recites a first software stage and one of ordinary skill would understand that the recited "first stage" of claims 9 and 11 was the same as the "first software stage" of claim 1. Since there is proper antecedent basis for the term "first stage" the rejection is improper and should be withdrawn. Despite the improperness of the rejection, claims 9 and 11 have been amended so as to replace "first stage" with "first software stage." Accordingly, the rejection should be withdrawn.

Claims 10 and 12 were rejected because there was no proper antecedent basis for "the second stage." Applicants traverse the rejection in that independent claim 1 recites a second software stage and one of ordinary skill would understand that the recited "second stage" of claims 10 and 12 was the same as the "second software stage" of claim 1. Since there is proper antecedent basis for the term "second stage" the rejection is improper and should be withdrawn. Despite the improperness of the rejection, claims 10 and 12 have been amended so as to replace "second stage" with "second software stage." Accordingly, the rejection should be withdrawn.

Claim 14 was rejected because there was no proper antecedent basis for "the status message." Claim 14 has been amended so as to replace "the status message" with "the data message." Since there is proper antecedent basis for "the data message" in claim 14, the rejection has been overcome and should be withdrawn.

Claim 17 was rejected because there was no proper antecedent basis for "the stages." Applicants traverse the rejection in that independent claim 1 recites both a first software stage and a second software stage and one of ordinary skill would understand that the recited "stages" of claim 17 were the same as the first and second software stages of claim 1. Since there is proper antecedent basis for the term "the stages" the rejection is improper and should be withdrawn. Despite the improperness of the rejection, claim 17 has been amended so as to replace "stages" with "first stage software component and the second stage software component" and replace "software component stages" with "first and second stage software components." Accordingly, the rejection should be withdrawn.

Since the amendments made in claims 9-12 and 17 clarify the invention and do not change the scope or meaning of the original claims, the amendments are not related to

patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd,* 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) *(en banc), overruled in part,* 535 U.S. 722 (2002).

D.   35 U.S.C. § 102

Claims 22 and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hirosawa et al. Applicants traverse the rejection. Claim 22 originally recited "outputting the status code from an output of the remote software module if the remote software module provides a logical data path of continuity to the status code." The Office Action recites figure 1 and item 22 as disclosing the recited outputting. However, item 22 does not output a status code based on if a remote software module provides a logical data path of continuity to the status code. Instead, item 22 issues a fault information control command when a fault occurrence report is generated by monitor/control apparatus 100. (Col. 9, ll. 41-45). In other words, item 22 only operates when a fault has been detected. If no fault occurs, such as software providing a logical data path for a code, then item 22 does not generate any code. Accordingly, claim 22 is not anticipated by Hirosawa et al. and so the rejection is improper and should be withdrawn.

Despite the improperness of the rejection, claim 22 has been amended to clarify that the process of "determining whether the remote software module provides a logical data path of continuity to the status code" is performed. Since Hirosawa et al. does not disclose such a determining process, the rejection of claims 22 and 23 should be withdrawn.

The rejection of claim 23 is improper for the additional reason that Hirosawa et al. does not disclose retrieving a status code as a dummy transaction that is transmitted to a base data processing system if the database provides a logical data path. The Office Action has

asserted that the passage at column 9, lines 57-60 of Hirosawa et al. discloses storage file 256 containing such a status code to be used as a dummy transaction to be fed to a base data processing system in the manner recited in the claim. However, the passage is silent as to sending any data from storage file 256 to a base data processing system. Accordingly, claim 23 is not anticipated by Hirosawa et al.

Note that the clauses being added to claim 22 merely clarify the invention since they are inherent to the claim. Since the clauses do not change the intended meaning and scope of the claim, the amendments are not related to patentability as defined in *Festo*.

E.   35 U.S.C. § 103

1.   Hirosawa et al.

a.   Claims 1-5 and 8-12

Claims 1-5 and 8-12 were rejected under 35 U.S.C. § 103 as being obvious in view of Hirosawa et al. Applicants traverse the rejection. Independent claim 1 recites a remote data processing system that includes "a fault detector associated with the first software stage component and the second software stage component to detect whether the data message or a derivative thereof flows through at least one of the first stage software component and the second stage software component." Hirosawa et al. does not disclose nor suggest such a fault detector. It is noted that the Office Action relies on fault decision part 10 as disclosing the recited detector. However, part 10 is not associated with two software stage components and does not detect whether a data message or a derivative flows through at least one stage software component. Since there is no motivation to have part 10 associated with two software stage components to detect whether a data message or a derivative thereof flow through at least one of the stages, the rejection is improper and should be withdrawn.

The rejections of claims 9-12 are improper for the additional reason that there is no motivation in Hirosawa et al. to have part 10 identify a software component as being faulty if a data message is present at an input of the component and is absent at an output of the same component. The Office Action states that it would have been obvious "to implement the limitations set forth in claims 8-12 in a desire shape and forms by using logical operators, functions and subroutines in order to obtain a desire output." This argument is based on pure hindsight and Applicants' own Specification, which is improper. Since there has been no motivation given for altering Hirosawa et al.'s part 10 to detect faults in the manner recited in claims 9-12, the rejection is improper and should be withdrawn.

Note that claim 1 has been amended to clarify that the fault detector detects "a fault in the remote software module" through the above described detecting of a data message or a derivative thereof. Since the amended language merely states an inherent property of the fault detector and does not change the intended meaning or scope of the claim, the amendment is not related to patentability as defined in *Festo*.

b. Claims 13-21

Claims 13-21 were rejected under 35 U.S.C. § 103 as being obvious in view of Hirosawa et al. Applicants traverse the rejection. Independent claim 13 recites a method of monitoring a remote data processing system by having at least a pair of stage software components accept a data message received via communications network and "identifying a deficient software component of the installed remote software module as any of said software stage components that blocks or disrupts the flow of the data message between two adjacent logical nodes." Hirosawa et al. does not disclose identifying a deficient software component that blocks or disrupts the flow of a data message. The Office Action has relied on the flow

chart in FIG. 12 and block 8 as disclosing the claimed "identifying." However, the process itself does not identify a deficient software component that blocks or disrupts the flow of a data message. Instead, the flow chart involves stopping a computer on purpose (Step 32b, Col. 12, l. 65 – Col. 13, l. 3) and then generating a fault summarizing information (Step 32c, Col. 13, ll. 4-18). Any software or hardware faults are then reported via Step 32f. Since there is no disclosure or suggestion of identifying a deficient software component that blocks or disrupts the flow of a data message, the rejection of claim 13 and its dependent claims is improper and should be withdrawn.

The rejections of claims 14 and 15 are improper because there is no motivation in Hirosawa et al. to use status codes to determine if a software module (claim 14) or a communications network (claim 15) is operational. The Office Action has asserted that since status codes are passed between item 10 and link L4, then it would have been obvious to use status codes to determine whether a software module or a communications network is operational. This rejection is based purely on hindsight and Applicants' own Specification. There is no mention of status codes being passed in Hirosawa et a. between item 10 and link L4. Even if they were being passed therebetween, the mere assertion that they could have been used for other purposes such as those stated in the claims is improper.

The rejections of claims 16 and 17 are improper because there is no motivation in Hirosawa et al. to use continuity of at least one logic data path traversed by a status code (claim 16) or tapping into a logical path between two stage software components (claim 17). is operational. The Office Action has relied on several passages in Hirosawa et al. as disclosing the process of claim 16. However, the passages are silent as to using the routing of a status code to indicate continuity of at least one logic path traversed by a status code.

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Regarding claim 17, the Office Action merely asserts that tapping is well known and obvious. However, the Office Action has failed to provide any motivation to use the process recited in claim 17 in Hirosawa et al. Without such motivation, the rejection is improper.

Note that the amendments made to claim 13 regarding the phrases "having a remote data processing system receive" and "that is external to the remote data processing system" are being made solely to clarify Applicants' invention. Since the amendments do not change the meaning or scope of the claim, the amendments are not related to patentability as defined in *Festo*.

Note that the amendments made to claims 17 and 19 are being made solely to clarify Applicants' invention. Since the amendments do not change the meaning or scope of the claims, the amendments are not related to patentability as defined in *Festo*.
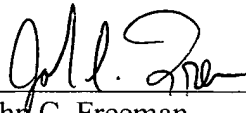
2. Hirosawa et al. and Gephardt

Claims 6 and 7 were rejected under 35 U.S.C. § 103 as being obvious in view of Hirosawa et al. and Gephardt. Applicants traverse the rejection. In particular, claims 6 and 7 depend directly on claim 1. As mentioned above in Section E.1.a, Hirosawa et al. does not disclose nor suggest using "a fault detector associated with the first software stage component and the second software stage component to detect whether the data message or a derivative thereof flows through at least one of the first stage software component and the second stage software component." Gephardt does not cure the deficiencies of Hirosawa et al. in that Gephardt does not suggest altering Hirosawa et al. to use the claimed fault detector. Without such suggestion, the rejection is improper and should be withdrawn.

CONCLUSION

In view of the arguments above, Applicants respectfully submit that all of the pending claims 1-23 are in condition for allowance and seek an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,

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In the Drawings:

Applicants are submitting a proposed correction for original FIG. 1. The proposed correction responds to an objections to the drawings made in the Office Action mailed on November 22, 2004. Newly proposed FIG. 1 adds numeral 10. Numeral 10 identifies an embodiment of a business-to-business system.

The additions have been indicated in red ink. Furthermore, it is not believed that the correction involves new matter. Accordingly, please indicate whether the correction is acceptable in the next Office Action.